Workers’ Rights - Module 8

Special Warehouse Worker Hazards in Structural Steel Fabricating and Supply Companies

Job Safety and Health
It's the law!

Employees:
- You have the right to notify your employer or OSHA about workplace hazards. You may see OSHA to keep your name confidential.
- You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthful conditions in your workplace. Your employer representative may participate in the inspection.
- You can file a complaint with OSHA within 30 days of employment or discrimination by your employer for refusing to participate in violation of your rights under the OSHA Act.
- You have the right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violations.
- Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been corrected.
- You have the right to copies of your medical records and records of your and your co-workers' injuries and illnesses or conditions.
- You have the right to post a notice in your workplace.
- You must comply with all occupational safety and health standards issued under the OSHA Act.

Employers:
- You must furnish your employees a plan of employment-free from major hazards.
- You must comply with the occupational safety and health standards issued under the OSHA Act.
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“Worker Protection is the law of the land”

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Program Development

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Learning Outcomes: Participants shall be able to:

- Demonstrate understanding of workers’ rights under the OSH Act
- Demonstrate understanding of procedures for filing a complaint
- Demonstrate understanding of whistleblower protections
“Employers have the responsibility to provide a safe and healthful workplace that is free from serious recognized hazards. This is commonly known as the General Duty Clause of the OSH Act.”

Source OSHA 3021-09R 2011
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Worker rights

- Under the OSH Act you have certain rights

- OSHA Guide 3021 provides a general overview of worker rights under the Occupational Safety and Health Act (OSH Act)

- It is available for free download from www.osha.gov and is included in your trainer packet
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Worker Rights - you have the right to:

- Receive information from your employer about hazards and safety measures in the workplace

- “Refuse to work in an imminent danger situation, under certain conditions”

Source: OSHA 3021-09R 2011

Source: [https://www.osha.gov/Publications/Mach_SafeGuard/rights.html](https://www.osha.gov/Publications/Mach_SafeGuard/rights.html)
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Worker Rights - you have the right to:

- Right to request an OSHA inspection for hazards, and violations under OSHA (may remain anonymous)
- Have an authorized employee representative accompany the OSHA inspector during the inspection
- Meet informally with the OSHA officer (may be a private meeting)
- Ask OSHA about any tests performed in the workplace or results of inspections

Source: https://www.osha.gov/Publications/Mach_SafeGuard/rights.html
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Worker Rights - you have the right to:

- “File a confidential complaint with OSHA to have their workplace inspected.
- Receive information and training about hazards, methods to prevent harm, and the OSHA standards that apply to their workplace. The training must be done in a language and vocabulary workers can understand.
- Review records of work-related injuries and illnesses that occur in their workplace.
- Receive copies of the results from tests and monitoring done to find and measure hazards in the workplace.
- Get copies of your workplace medical records.
- Participate in an OSHA inspection and speak in private with the inspector.”

Source: OSHA 3021-09R 2011
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Worker Rights Continued

- “File a complaint with OSHA if you have been retaliated or discriminated against by your employer as the result of requesting an inspection or using any other rights under the OSH Act.

- File a complaint if punished or discriminated against for acting as a “whistleblower” under the additional 21 federal statutes for which OSHA has jurisdiction.”

Source OSHA 3021-09R 2011
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Workers Rights Under OSHA

- Right to file a complaint if dismissed, demoted, or discriminated against for exercising rights under OSHA

- File a complaint with federal OSHA authorities if your state agency fails to administer a program effectively

- Be notified by your employer of any citations issued

Source OSHA 3021-09R 2011
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Employer Responsibilities:

- Provide workers “with a workplace that does not have serious hazards”
- “Follow all OSHA safety and health standards”
- “Find and correct safety and health problems”
- “Try to eliminate or reduce hazards first by making feasible changes in working conditions.”
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Employer Responsibilities Continued:

- “Inform employees about hazards through training, labels, alarms, color-coded systems, chemical information sheets and other methods.
- Train employees in a language and vocabulary they can understand.
- Keep accurate records of work-related injuries and illnesses.
- Perform tests in the workplace, such as air sampling, required by some OSHA standards.
- Provide hearing exams or other medical tests required by OSHA standards.
- Post OSHA citations and injury and illness data where workers can see them”

Source OSHA 3021-09R 2011
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Employer Responsibilities Continued:

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Employer Responsibilities Continued:

- Display the official OSHA Job Safety and health poster.

- Not discriminate against workers using their rights under (Section 11(c)) of the OSH Act

- Provide and pay for necessary PPE

Source OSHA 3021-09R 2011
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Worker Responsibilities:

- “Read the OSHA poster in the workplace
- Comply with all the OSHA standards, with all requirements of your State-approved plan (if any), and with the employer's safety and health rules”

Source: https://www.osha.gov/Publications/Mach_SafeGuard/rights.html
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Worker Responsibilities – Continued:

- “Report any hazards immediately to your supervisor
- Report to your supervisor any job-related illness or injury
- Cooperate fully with the OSHA compliance officer who inspects your workplace”

Source: https://www.osha.gov/Publications/Mach_SafeGuard/rights.html
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Protection from discrimination

An employer cannot discriminate against an employee for the following:

Source OSHA 3021-09R 2011
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Protection from discrimination if worker has:

- “Filed a complaint under or related to the Act
- Instituted or caused to be instituted any proceeding under or related to the Act
- Testified or is about to testify in any proceeding under or related to the Act
- Exercised on his own behalf or on the behalf of others any right afforded by the Act”

How to file a complaint

- Options to filing a health and safety complaint:
  - Online
  - Fax/Mail
  - Phone

- Must file complaint within 30 days of alleged discrimination*
- An employee may also have a representative on their behalf file the complaint
- Complaints should be filed with the regional or area OSHA office.

Source OSHA 3021-09R 2011
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What information do you need?

- “How many employees work at the site and how many are exposed to the hazard?
- How and when are workers exposed?
- What work is performed in the unsafe or unhealthful area?
- What type of equipment is used? Is it in good condition?
- What materials and/or chemicals are used?
- Have employees been informed or trained regarding hazardous conditions?
- What process and/or operation is involved?”

https://www.osha.gov/as/opa/worker/complain.html
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What information do you need (continued)?

- “What kinds of work are done nearby?
- How often and for how long do employees work at the task that leads to their exposure?
- How long (to your knowledge) has the condition existed?
- Have any attempts been made to correct the problem?
- On what shifts does the hazard exist?
- Has anyone been injured or made ill as a result of this problem?
- Have there been any "near-miss" incidents?”

https://www.osha.gov/as/opa/worker/complain.html
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What information do you need?

- Not all of the above has to be provided, OSHA only needs *enough* to determine whether or not they will investigate, for example: only two or three could be provided*

- You do not need to know which specific standard has been violated*

https://www.osha.gov/as/opa/worker/complain.html
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Can an employer retaliate against you for filing a complaint?

No, it is against the law.

Protection from discrimination means that an employer cannot retaliate by taking “adverse action” against workers.

Source OSHA 3021-09R 2011
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Right to Use Your Rights:

- Protection from Discrimination
- Whistleblower Protection
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Whistleblower Protection

- “A whistleblower is a person who exposes misconduct, alleged dishonest or illegal activity occurring in an organization.”

- Whistleblower protection program:
  - Enforces whistleblower provisions of more than 20 statutes who protect employees who report violations.

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If you file a complaint it is wrong for the employer to retaliate against you by:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Making threats
- Reassignment affecting prospects for promotion
- Reducing pay or hours

Sources OSHA 3021-09R 2011

If your employer has punished you for filing a complaint:

- “You can file a discrimination complaint with OSHA
- Must file within 30 days of alleged adverse action
- Contact your local OSHA office by calling 1-800-321-OSHA (6742), or send a letter to your closest regional or area office
- No form is required
- In states with approved state plans, employees may file a complaint with both the State and Federal OSHA”

Source OSHA 3021-09R 2011
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Sources
OSHA 3021-09R 2011, Workers Rights (2011)
https://www.osha.gov/Publications/Mach_SafeGuard/rights.html
https://www.osha.gov/as/opa/worker/complain.html
http://www.whistleblowers.gov/
http://www.aisc.org/content.aspx?id=32